(1)

P.R. No. 275506
Presented by Shri YVR Rao
dated 31/5/06

(4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

WRIT PETITION NO. 4846 OF 2006 **SINGLE BENCH**

BETWEEN

1. Narayan Prasad Patel S/o Late Shri Daitari Prasad Patel , aged about 31 years, originally appointed on the post of Dispensary servant (Aushdhalay Sewak) on contract basis , presently working at Bunga , Block Pussore, District Raigarh ,resident of Village Tarapur, Tahsil and district Raigarh (CG).

2. Prem Shanker Sidar S/o Shri Budheshwar Prasad Sidar, aged about 34 years, originally appointed on the post of Dispensary servant (Aushdhalay Sewak) on contract basis , presently working at Sankara , Block Sarangarh , District Raigarh ,resident of Village Hardi , Block Sarangarh Tahsil and district Raigarh (CG).

Marks Removed as per court order dtd 25/8/06

3. Ku. Neera Mahant D/o Jagat Das, aged about 29 years, originally appointed on the post of Dispensary servant (Aushdhalay Sewak) on contract basis ,presently working at Gorpar, Block Kharsiya District Raigarh ,resident of Village Nawagaon , Post Kata Hardi, district Raigarh (CG).

Attested 29/9/06 (4) 01.9.06 ARC(J) 29/9/06

4. Munu Ram Chouhan S/o Sudarshan Chouhan, aged about 33 years, originally appointed on the post of Dispensary servant(Aushdhalay Sewak) on contract basis , presently working at Khadgaon , Block Dharamjaigarh, District Raigarh ,resident of Village Pandaripani , Post Jurda, district Raigarh (CG).

5. Nilamber Sahu S/o Bir Singh Sahu, aged about 32 years originally appointed on the post of Dispensary servant (Aushdhalay Sewak) on contract basis , presently working at Barra , Block Kharsiya , District Raigarh ,resident of Village Lodhajhar , Post Murra , Block Kharsia district Raigarh (CG). PETITIONERS

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VERSUS

1. State of Chhattisgarh, Secretary Department of Health Services , D.K.S. Building Raipur (C.G.)

2. The Secretary, Panchayat and Rural Development Department, D.K.S. Building Raipur (CG).

3. The Director , Directorate of Indian Medicine System and Homeopathy Chhattisgarh, Raipur Near D.K.S. Mantralay , Raipur (CG).

4. District Ayurvedic Officer, Near Dr. Vishveshariya Hostel , Chakradhar Nagar Banglapara, Raigarh (CG).

5. The Collector, Raigarh (CG).

6. The Chief Executive Officer, District Panchayat (D.R.D.A.) Raigarh (CG).

RESPONDENTS

OATH COMMISSIONER APARNA MALVIYA CG 7/2006 Bilaspur Chhattisgarh

(2)

(5)

WRIT PETITION U/S 226/227 OF THE CONSTITUTION OF INDIA

(116)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

WRIT PETITION NO. 4846 OF 2006

Petitioners : Narayan Prasad Patel and others

Versus

Respondents : State of Chhattisgarh & others

Shri Y.V. Raman Rao, counsel for the petitioners.

Shri Satish Gupta, Dy. Govt. Advocate for the State.

O R D E R

(Passed on 6th September, 2006)

1. Learned counsel for the petitioners submits that the petitioners were appointed on 23.9.98 (Annexure P/3) as Contract Basis and their engagement are continuing.

2. The petitioners have filed this petition praying for a relief of regularization of their services.

3. On perusal of the papers, it is found that the appointments of the petitioners were not in accordance with law and as per constitutional scheme of employment. There was no invitation to the public for making application for appointments to the said posts. The petitioners were chosen without any advertisement or without calling his name from the Employment Exchange. It is, therefore, held that the appointments of the petitioners on

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contract basis are in violation of the constitutional scheme enshrined under Articles 14 & 16 of the Constitution of India and the same are void in law.

4. A constitutional Bench of the Hon'ble Supreme Court in the case of **Secretary, State of Karnataka & others Vs. Umadevi (3) and others {(2006) 4 SCC 1}** clearly held that absorption, regularization, or permanent continuance of temporary, contractual, casual, daily-wage or ad hoc employees appointed/recruited and continued for long in public employment dehors the constitutional scheme of public employment create another mode of public employment which is not permissible. In the present case, the petitioners are daily wagers and are not appointed in accordance with law and as per the constitutional scheme of the public employment. Thus, they do not acquire any right for regularization.

5. For the reasons stated above, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu